

Senate Resolution 794

By: Senators Hill of the 32nd, Rogers of the 21st, Hudgens of the 47th, Hawkins of the 49th,
Butterworth of the 50th and others

A RESOLUTION

Proposing an amendment to the Constitution so as to provide that no law or rule or regulation shall compel any person, employer, or health care provider to participate in any health care system and to authorize persons and employers to pay directly for lawful health care services without penalties or fines; to provide a short title; to provide for the submission of this amendment for ratification or rejection; and for other purposes.

BE IT RESOLVED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This resolution shall be known as and may be cited as the "Health Care Freedom of Choice Constitutional Amendment."

SECTION 2.

Article I of the Constitution is amended by adding a new section to read as follows:

"SECTION V.

HEALTH CARE

Paragraph I. *Definitions.* As used in this section, the term:

(1) 'Compel' includes penalties or fines.

(2) 'Direct payment' or 'pay directly' means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service.

(3) 'Health care system' means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for, or payment for, in full or in part, health care services or health care data or health care information for its participants.

(4) 'Lawful health care services' means any health related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services.

(5) 'Penalties or fines' means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge, or any named fee with a similar effect established by law or rule by a government established, created, or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

Paragraph II. **Health care protections.** (a) To preserve the freedom of citizens of this state to provide for their health care:

(1) No law or rule or regulation shall compel, directly or indirectly, any person, employer, or health care provider to participate in any health care system; and

(2) A person or employer may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services.

A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

(b) Subject to reasonable and necessary rules and regulations that do not substantially limit a person's options, the purchase or sale of health insurance in private health care systems shall not be prohibited by law or by rule or regulation.

(c) This section shall not:

(1) Affect which health care services a health care provider or hospital is required to perform or provide;

(2) Affect which health care services are permitted by law;

(3) Prohibit care provided pursuant to any statutes enacted by the General Assembly relating to workers' compensation;

(4) Prohibit the imposition by the General Assembly of conditions and limitations on the use or applicability of exemptions and deductions with regard to income taxation;

(5) Affect laws or rules in effect as of January 1, 2009; or

(6) Affect the terms or conditions of any health care system to the extent that those terms and conditions do not have the effect of punishing a person or employer for paying directly for lawful health care services or a health care provider or hospital for accepting direct payment from a person or employer for lawful health care services."

SECTION 3.

The above proposed amendment to the Constitution shall be published and submitted as provided in Article X, Section I, Paragraph II of the Constitution. The ballot submitting the above proposed amendment shall have written or printed thereon the following:

59 "() YES Shall the Constitution of Georgia be amended so as to provide that no law
60 or rule or regulation shall compel any person, employer, or health care
61 () NO provider to participate in any health care system and to authorize persons
62 and employers to pay directly for lawful health care services without
63 penalties or fines?"

64 All persons desiring to vote in favor of ratifying the proposed amendment shall vote "Yes."
65 All persons desiring to vote against ratifying the proposed amendment shall vote "No." If
66 such amendment shall be ratified as provided in said Paragraph of the Constitution, it shall
67 become a part of the Constitution of this state.